



1 that activity, it appeared he may be back in the area. Based upon this Court's ruling, the  
2 United States applied for and obtained a material witness warrant. ECF 111 and 112.  
3 On June 10, 2020, the witness was located and arrested pursuant to the material witness  
4 warrant.

5 The United States notified counsel this morning that the witness has been located  
6 and as soon as the witness has appointed counsel, the parties will work together to set up a  
7 time for him to be interviewed by the defense. The United States also inquired as to the  
8 position of counsel as to the reinstatement of the charge. Counsel indicated he would still  
9 object to the reinstatement of the charge, arguing it was too little too late. However,  
10 respectfully, the United States submits that is not the proper remedy under the law for this  
11 circumstance. The witness has been located in sufficient time for the Defendant to utilize  
12 this witness and their testimony at trial.

13 It is therefore the United States' position that the basis for the dismissal of Count 2  
14 no longer exists and has been cured by locating the witness and making him available to  
15 counsel prior to trial. The United States further respectfully submits, the Defendant has  
16 not suffered any prejudice as this matter was previously set for July 20, 2020 prior to the  
17 decision as to the pending motion. Therefore, the trial was not delayed in any manner due  
18 to this witness or the issues surrounding this witness.

### 19 Conclusion

20 For the foregoing reasons, the United States respectfully submits there is no basis  
21 with which to dismiss Count 2 of the Superseding Indictment. The United States asks  
22 this Court to reconsider its order of dismissal and reinstate the charge.

23  
24 DATED June 11, 2020.

25 William D. Hyslop  
26 United States Attorney

27 s/ Stephanie Van Marter  
28 Stephanie Van Marter  
Assistant United States Attorney

**CERTIFICATION**

I hereby certify that on June 11, 2020 I electronically filed the foregoing with the Clerk of the Court and counsel of record using the CM/ECF System.

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